

# REISSUE LITIGATION

PTO/SB/52 (08-99)

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Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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<b>REISSUE APPLICATION DECLARATION BY THE ASSIGNEE</b>		Docket Number (optional) <b>12665 .46</b>
<p>I hereby declare that:</p> <p>My residence and post office address and citizenship are stated below next to my name.</p> <p>I am authorized to act on behalf of the following assignee: <u>MessagePhone, Inc.</u></p> <p>and the title of my position with said assignee is: _____</p> <p>The entire title to the patent identified below is vested in said assignee.</p>		
<p>Name of Patentee(s):</p> <p><b>Lawrence R. Biggs, Jr. and Harry S. Budow</b></p>		
<p>Patent Number</p> <p><b>5,323,448</b></p>	<p>Date of Patent Issued</p> <p><b>June 21, 1994</b></p>	
<p>Title of Invention</p> <p><b>SYSTEM FOR ACCESSING AMENITIES THROUGH A PUBLIC TELEPHONE NETWORK</b></p>		
<p>I believe said patentee(s) to be the original, first and sole/joint inventor(s) of the subject matter which is described and claimed in said patent, for which a reissue patent is sought on the invention entitled _____</p> <p><b>SYSTEM FOR ACCESSING AMENITIES THROUGH A PUBLIC TELEPHONE NETWORK</b></p> <p>the specification of which</p> <p><input checked="" type="checkbox"/> is attached hereto.</p> <p><input type="checkbox"/> was filed on _____ as reissue application number _____ / _____</p> <p style="text-align: center;">(If applicable)</p> <p>I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.</p> <p>I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR 1.56.</p> <p>I verily believe the original patent to be wholly or partly inoperative or invalid, for the reasons described below. (Check all boxes that apply.)</p> <p><input checked="" type="checkbox"/> by reason of a defective specification or drawing.</p> <p><input type="checkbox"/> by reason of the patentee claiming more or less than he had the right to claim in the patent.</p> <p><input type="checkbox"/> by reason of other errors.</p> <p>At least one error upon which reissue is based is described as follows:</p> <p><b>Regarding Claims 1 and 18, the specification does not comply with the written description requirement with regard to the term "central distribution computer," as explained in Messagephone, Inc. v. SVI Systems, Inc. and Tharaldson Property Management, Inc. 99-1471, - 1478 (Fed. Cir., decided August 11, 2000). Opinion attached hereto.</b></p> <p style="text-align: center;">[Attach additional sheets, if needed.]</p> <p>All errors corrected in this reissue application arose without any deceptive intention on the part of the applicant.</p>		

[Page 1 of 2]

Burden Hour Statement: This form is estimated to take 0.5 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

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(REISSUE APPLICATION DECLARATION BY THE ASSIGNEE, page 2)		Docket Number (Optional ) <b>12665 .46</b>	
I hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and transact all business in the Patent and Trademark Office connected therewith.			
Name(s) <b>David L. McCombs</b> Registration Number <b>32,271</b> ; <b>Jeffrey M. Becker</b> <b>35,442</b> ; <b>David M. O'Dell, 42,044</b> ; <b>Warren B. Kice, 22,732</b> ; <b>Randall E. Colson, 40,566</b> ;			
<b>Michael D. Pegues, 38,993</b> ; <b>Ruben C. DeLeon, 37,812</b> ; <b>William R. Naife, 44,962</b> ; <b>Phillip</b>			
<b>B. Philbin, 35,979</b> ; <b>Brian J. Hubbard, 45,873</b> ; <b>Michael S. Bush, 31,745</b>			
Correspondence Address: Direct all communications about the application to:			
<input type="checkbox"/> Customer Number		<div style="border: 1px solid black; width: 150px; height: 30px; margin: 0 auto;"></div> <div style="display: inline-block; vertical-align: middle;">→</div> <div style="border: 1px solid black; padding: 5px; margin-left: 20px; text-align: center;"> <i>Place Customer Number Bar Code Label Here</i> </div>	
<b>OR</b>		<div style="border: 1px solid black; width: 150px; height: 30px; margin: 0 auto;"></div> <div style="display: inline-block; vertical-align: middle;">→</div> <div style="border: 1px solid black; padding: 5px; margin-left: 20px; text-align: center;"> <i>Place Customer Number Bar Code Label Here</i> </div>	
<input checked="" type="checkbox"/> Firm or Individual Name	<b>David L. McCombs</b>		
Address	<b>Haynes and Boone, LLP</b>		
Address	<b>901 Main Street, Suite 3100</b>		
City	<b>Dallas</b>	State	<b>Texas</b>
Country	<b>United States of America</b>		
Telephone	<b>214-651-5533</b>	Fax	<b>214-651-5940</b>
I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine and imprisonment, or both, under 18 U.S.C. 1001, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this declaration is directed.			
Full name of person signing (given name, family name)			
Signature		Date	
Address of Assignee <b>MessagePhone, Inc. 12655 N. Central Expy., Suite 1014-LB #56, Dallas, Texas 75243</b>			
Patentee <b>Lawrence R. Biggs, Jr.</b>		Citizenship <b>United States</b>	
Residence/Post Office Address <b>Dallas, Texas</b>			
Patentee <b>Harry S. Budow</b>		Citizenship <b>United States</b>	
Residence/Post Office Address			

## PATENT

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

<b>Applicant:</b>	Biggs, Jr. et al.	§	<b>Atty. Docket No.:</b> 12665.46
		§	
<b>Assignee:</b>	MessagePhone, Inc.	§	
		§	
<b>Application No.:</b>	Re Issue of US Patent 5,323,448	§	
		§	
<b>Filed:</b>	Herewith	§	
		§	
<b>For:</b>	SYSTEM FOR ACCESSING	§	
	AMENITIES THROUGH A	§	
	PUBLIC TELEPHONE	§	
	NETWORK	§	

**CONSENT OF ASSIGNEE FOR FILING REISSUE APPLICATION, OFFER TO  
SURRENDER PATENT AND CERTIFICATION FOR TAKING ACTION BY ASSIGNEE  
UNDER 37 CFR 3.73(b)**

Commissioner For Patents  
Washington, D.C. 20231

Dear Sir:

MessagePhone, Inc., assignee of United States Patent 5,323,448, consents to the filing of the present application for the reissue of United States Patent 5,323,448 and offers to surrender the original patent.

The undersigned representative of the above-identified assignee certifies that the above-identified assignee is the assignee of the entire right, title and interest in the above-identified patent application by virtue of a chain of title from the inventors of the above-identified patent application to the above-identified assignee as shown below:

From: Lawrence R. Biggs, Jr. and Harry S. Budow      To: Strategic Telecom  
Recorded on: 03/11/1993, Reel 6461, Frame 0309

From: Strategic Telecom      To: Spectradyne, Inc.  
Recorded on: 09/13/1993, Reel 6682, Frame 0375

From: Spectradyne, Inc.      To: MessagePhone, Inc.  
Recorded on: 12/23/1996, Reel 8274, Frame 0777

The undersigned has reviewed all the documents in the chain of title of the above-identified patent application and, to the best of the undersigned's knowledge and belief, title is in the above-

identified assignee. The undersigned (whose title is supplied below) is empowered to sign this certificate on behalf of the above-identified assignee.

The undersigned hereby declares that all statements made herein of the undersigned's own knowledge are true; and that all statements made on information and belief are believed to be true; and further, that these statements are made with the knowledge that willful false statements, and the like so made, are punishable by fine or imprisonment, or both, under Section 1001, Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Executed the 21<sup>st</sup> day of December, 2000.

MESSAGEPHONE, INC.

By:   
Name: Joel Pugh  
Title: PRESIDENT

d-823433.1